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## **The Voice of Flat Owners**

**Press Release from The Federation of Private Residents Associations Ltd.**

**Embargo: 00.01am Monday 16th January 2012**

## **Our call for new high standard of management for blocks of flats head to the House of Lords**

The Federation of Private Residents Association (FPRA) have today welcomed news that Conservative Peer Baroness Gardner of Parkes has taken up the FPRA campaign calling on the Coalition Government to introduce a minimum standard for private sector property management for blocks of flats

Baroness Gardner's question calling for a new statutory code of practice for all those carrying out property services in the flat management sector has been tabled for Lords Question time tomorrow (Tuesday).

The FPRA and a wide section of property professionals took part in a Department of Communities & Local Government (DCLG) task and finish group in 2009 to look at the issue and the group reached the general consensus that some form of independent redress was required for long-leasehold home owners to raise the standard of the property management industry.

FPRA Chairman Bob Smytherman said,

"The Coalition Government's policy to rely on self-regulation has resulted in a very patchy level of service to us flat owners with the sector relying heavily on the vested interests of trade associations such as ARMA (Association of Residential Property Management) and the Royal Institute of Chartered Surveyors (RICS) who both tend to put the interests of their members before the flat owners that they are supposed to serve, equally there are some excellent property managers who see little or no value in being a member of a trade association choosing instead to concentrate on excellent customer service."

"The RICS Code of Practice is not only voluntary for property management companies it is virtually unheard of by most flat owners, equally there are around

50% of property managers who don't even belong to any trade association despite collecting and holding large amounts of service charge funds often amounting to millions of pounds and not covered by any code of practice or regulation."

"We believe the only way to get the 'rogues' out of the sector is to have a compulsory independent licensing scheme with a high minimum standard, along with severe penalties for breaches of those required standards. There are over 2 Million flat owners who need proper protection from the loopholes in the present arrangements and we welcome Baroness Gardener's intervention."

"Unfortunately Commonhold provisions in the 2002 Act were poorly drafted and, as a result, Parliament's intention to create an entirely new form of tenure has almost completely failed. We believe remedies could include making it compulsory in all new developments, a right to convert from leasehold in existing blocks by a simple majority decision.

"Another major concern are the insurance commissions that many Freeholders & their Managing Agents make at the expense of flat owners who are usually required to pay for insurance of the structure of the building via the service charge, added Bob."

"Many freeholders and managing agents see this as a profit-making opportunity and the whole insurance market for blocks of flats is, as a result, distorted by the payment of excessively high commissions and quasi-commissions in various guises to brokers, intermediaries and others, often amounting to 30%, 40%, 50% or even higher percentages; thus, the premium charged to the flat owner is substantially higher than it should be."

"Although legislation requires that service charges, including insurance, must be 'reasonable' and if not, is referable to a Leasehold Valuation Tribunal; however, unlike other charges, such as maintenance, cleaning, etc. in the case of insurance, the protection afforded by the law is ineffective.'

The FPRA have proposed to Government a similar regulation such as in the Life and Pension market so that unfair commissions are banned altogether to protect leasehold flat owners from inflated insurance premiums. We believe the earning capacity of legitimate and responsible insurance brokers and others would not be affected as transparent fees at a reasonable level could still be charged and fully visible to flat owners on their service charge account."

It is often claimed by some professionals that commissions are already transparent and this may well be the case with good property managers, however we are aware that this is not always the case for all flat owners as 'hidden' commissions are frequently paid direct to freeholders without the knowledge of the flat owner concerned.

Many property professionals' only disclose commissions on request as required by the RICS code and not automatically therefore the vast majority of flat owners would not even know of this abuse or their right to challenge it.

Another concern we have in the current unregulated system is for the majority of flat owners who are obliged to pay advance payments and contributions to sinking/reserve funds.

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*Bob is one of the independent judges of the News on the Block prestigious*

*Property Management Awards held annually at Lords*

NOTES TO EDITORS

It is simply a scandal that a large sum of flat owners' cash that is paid to secure a high standard of maintenance to their homes is held by unregulated and unprotected managing agents. We estimate this may well exceed £1billion and perhaps may be even higher.

We are not aware of any other sector in the UK where such significant funds held by a third party are totally unregulated and can in practice be a person or organisation without any qualification who sets up a property management business, irrespective of experience or even of a criminal background but nevertheless is able to take and hold these funds on behalf of flat owners.

This situation has on occasions resulted in flat owners being defrauded or otherwise losing funds. Bizarrely, there is a whole statutory scheme of protection for rental deposits but none for leasehold home owners service charges who are obliged to advance much greater sums to look after the buildings in which they live, it is true legislation requiring deposits to be held in "trust" is in place but this is very difficult to enforce in an unregulated sector in practice.

It is, in our view absolutely essential that some system is devised so that such funds are protected by the Financial Insurance Services Compensation Scheme or similar.

Even if the funds are held in deposit accounts, because of the current limits, protected only up to £50,000 this may well be adequate for small blocks of

flats, in the event of failure of the banking institution in question however larger blocks of flats would have minimal protection in such a situation.

This could be addressed by a very simple change in the Financial Services Authority (FSA) rules by stating that, where monies are held in trust for leaseholders, the compensation limits would apply to the individuals and not to the total sum.

We also think there should be an annual audit for every managing agent by an 'independent' regulatory body (not the trade association) and obtain approval with sanctions to agents failing to comply.

We believe all of this could be achieved at minimal cost to government with substantial savings to every flat owner in England and Wales.

We hope that their Lordships' house will be able to suggest some solutions which will greatly improve the lives and financial protection for over 2 million of flat owners.

Further problems relating to the leasehold sector have been highlighted by the FPRA to Government in our publication 'Forgotten Leaseholders' which is available on our web-site and was produced last year to mark 40 years of being the only independent organisation representing the interests of long-leasehold flat owners.

Full Question to House of Lords Question Time - Baroness Gardner of Parkes to ask Her Majesty's Government whether they will introduce regulations or a code of practice to set standards for managing agents for leasehold blocks of flats.

The FPRA is a non-political, not-for-profit advice, support and lobbying organisation for our members who include private residential leaseholders, tenants' and residents' associations and residential management companies as well as those companies where the leaseholders together own the freehold of their own residential block.

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